

R E M A R K S

Reconsideration of this application in light of the present amendment and remarks is respectfully requested. In the outstanding office action, claims 1-12 are pending in the application. Claims 1-12 are rejected.

Claims 1 and 6 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. patent No. 6,212,393.

Claims 1-12 were rejected under 35 U.S.C. 103 as being unpatentable over Hoffman et al. (6,239,700B1) and Dailey (6,577,874B1).

RESPONSE TO THE OFFICE ACTION

In response to the Examiner's inquiry and the Applicant's obligation under 37 C.F.R. 1.56 and further in compliance with 35 U.S.C. par. 102 (f) and (g) and 35 U.S.C. 103, the subject matter of the various claims was commonly owned at the time the invention was made.

Applicant notes that Applicant has not received a Notice of Draftsperson's Patent Drawing Review (PTO-948) for this case. Applicant respectfully requests Examiner to forward such document when available.

Claim Rejections - 35 U.S.C. § 103(a):

In response to the office action dated January 28, 2004, applicant hereby submits a declaration of prior invention in the United States under 37 C.F.R. §1.131 to overcome the cited United States Patent 6,577,874 B1 to Dailey. Applicant respectfully submits that the rejection of claims 1-12 under 35 U.S.C. § 103(a) as being unpatentable over Hoffman et al. (6,239,700B1) and Dailey (6,577,874B1) is moot in view of the submitted declaration.

Rejection under Obvious Type-Double Patenting

In response to the Examiner's rejection under obvious type double patenting, a terminal disclaimer, in compliance with 37 CFR § 1.321(c), is filed of even date herewith to overcome the obvious-type double patenting rejection. Since the above mentioned application and U.S. Patent No. 6,212,393 are commonly owned by the same assignee of the application, it is believed that the terminal disclaimer overcomes the obviousness-type double patenting rejection.

For the foregoing reasons, applicants respectfully request that the above rejections be withdrawn. Inasmuch as this amendment distinguishes all of the applicants' claims over the prior art references, for the many reasons indicated above, passing of this case is now believed to be in order. A Notice of Allowance is earnestly solicited.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. No amendment made was for the purpose of narrowing the scope of any

claim, unless applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references.

If the Examiner believes that there are any informalities which can be corrected by Examiner's amendment, or in the event that the Examiner deems the present application non-allowable, a telephone call to the undersigned at (954) 723-6449 is respectfully solicited.

Authorization is hereby given to charge any fees, or credit overpayment necessitated by actions taken herein to Deposit Account 50-2117.

Respectfully submitted,

SEND CORRESPONDENCE TO:

Motorola, Inc.
Law Department

Customer Number: 24273

By: 
Randi L. Karpinia
Attorney of Record
Reg. No.: 46,148
Telephone: 954-723-6449
Fax No.: 954-723-5599
Email: Randi.Karpinia@motorola.com